



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JUN 18 2012

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Brian G. Svoboda, Esq.
General Counsel
Democratic Congressional Campaign Committee
Perkins Coie
700 Thirteenth Street, NW
Washington, DC 20005-3960

RE: MUR 6443
Americans for Common Sense Solutions

Dear Mr. Svoboda:

This is in reference to the complaint you filed with the Federal Election Commission on December 15, 2010, concerning Americans for Common Sense Solutions. The Commission found that there was reason to believe Americans for Common Sense Solutions violated 2 U.S.C. §§ 434(f) and 441d, provisions of the Federal Election Campaign Act of 1971, as amended, and conducted an investigation in this matter. On June 14, 2012, a conciliation agreement signed by the respondent was accepted by the Commission. Accordingly, the Commission closed the file in this matter on June 14, 2012.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009). A copy of the agreement with Americans for Common Sense Solutions is enclosed for your information.

If you have any questions, please contact me at (202) 694-1650.

Sincerely,

Dominique Dillenseger
Attorney

Enclosure
Conciliation Agreement

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Americans for Common Sense Solutions)

CONCILIATION AGREEMENT

This matter was initiated by a signed, sworn, and notarized complaint. The Federal Election Commission ("Commission") found reason to believe that Americans for Common Sense Solutions ("ACSS" or "Respondent") violated 2 U.S.C. §§ 434(f) and 441d of the Federal Election Campaign Act of 1971, as amended (the "Act").

NOW, THEREFORE, the Commission and Respondent, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondent and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondent enters voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. ACSS is an unincorporated association registered with the Internal Revenue Service ("IRS") as a Section 527 political organization.

2. ACSS funded and distributed television and radio advertisements regarding David Cicilline, a candidate for Rhode Island's 1st Congressional District, and Lois Capps, a candidate for California's 23rd Congressional District, within 60 days before the November 2,

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2010 general election, but failed to disclose the communications and the associated contributions and disbursements as electioneering communications, as required by 2 U.S.C. § 434(f).

3 3. The Act defines an electioneering communication as a “broadcast, cable or
4 satellite communication” that: (1) refers to a clearly identified candidate for Federal office; (2) is
5 made within 60 days before a general election or 30 days before a primary election; and (3) is
6 targeted to the relevant electorate. 2 U.S.C. § 434(f)(3)(A)(i); *see also* 11 C.F.R. § 100.29(a). A
7 clearly identified candidate means that the candidate’s name, nickname, photograph or drawing
8 appears, or the identity of the candidate is otherwise apparent through an unambiguous reference.
9 11 C.F.R. § 100.29(b)(2). A communication is “targeted to the relevant electorate” when it can
10 be received by 50,000 or more persons in the district the candidate seeks to represent. 11 C.F.R.
11 § 100.29(b)(5).

12 4. Under 2 U.S.C. § 434(f) and 11 C.F.R. § 104.20, every person who makes
13 aggregate disbursements exceeding \$10,000 for the cost of producing and airing electioneering
14 communications during any calendar year must, within 24 hours of each disclosure date, disclose
15 information regarding the communication. *Id.* This disclosure must include the identity of the
16 person making the disbursement; the identity of any person sharing or exercising direction or
17 control over the activities of such person; the amount and the identity of the recipient of each
18 disbursement over \$200; and the names and addresses of contributors who give \$1,000 or more
19 in the calendar year to the person making the disbursement. 2 U.S.C. § 434(f)(2).

20 5. The Respondent, after receiving the Commission’s notification of the
21 complaint, self-disclosed the ads regarding Lois Capps, and filed electioneering communication
22 notices disclosing \$165,000 in donations and \$121,434 in disbursements related to all five

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1 electioneering communications. The advertisements clearly identify, by name and by
2 photograph, federal candidates David Cicilline and Lois Capps. See 2 U.S.C. § 434(f)(3)(A)(i)
3 and 11 C.F.R. § 100.29. In addition, based on the distribution dates reported by the Respondent,
4 it appears that each of the advertisements was broadcast during the relevant communication
5 period. *Id.* However, the Respondent violated the Act's reporting requirements by failing to file
6 the required notices within 24 hours of each disclosure date.

7 6. The Act also requires that when any person makes a disbursement for the
8 purpose of financing an electioneering communication, the communication shall include a
9 disclaimer that clearly states whether it was paid for or authorized by a candidate or a candidate's
10 authorized political committee. 2 U.S.C. § 441d(a) and 11 C.F.R. § 110.11(a)(4) and (b). If the
11 communication is not paid for or authorized by a candidate or the candidate's authorized political
12 committee, the disclaimer must clearly state the full name and permanent address, telephone
13 number, or World Wide Web address of the person who paid for the communication, and a
14 statement that it is not authorized by any candidate or candidate's committee. 2 U.S.C.
15 § 441d(a)(3) and 11 C.F.R. § 110.11(b)(3).

16 7. While the Cicilline and Capps television communications contain adequate
17 disclaimers, the disclaimer in the radio advertisement associated with Congressman Cicilline did
18 not include the full name and permanent address, telephone number or World Wide Web address
19 of the person who paid for the communication, and a statement that the communication is not
20 authorized by any candidate or candidate's committee. 2 U.S.C. § 441d(a)(3) and 11 C.F.R.
21 § 110.11(b)(3).

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V. 1. ACSS violated 2 U.S.C. § 434(f) by failing to timely file notices of five electioneering communications.

2. ACSS violated 2 U.S.C. § 441d by failing to include an adequate disclaimer in its radio advertisement.

VI. 1. Respondents will cease and desist from violating 2 U.S.C. §§ 434(f) and 441d.

2. Respondents agree to pay a civil penalty to the Federal Election Commission in the amount of Nine Thousand Dollars (\$9,000), pursuant to 2 U.S.C. § 437g(a)(5)(A).

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. Respondent shall have no more than thirty (30) days from the date this agreement becomes effective to comply with and implement the requirement contained in this agreement and to so notify the Commission.

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1 X. This Conciliation Agreement constitutes the entire agreement between the parties on
2 the matters raised herein, and no other statement, promise, or agreement, either written or oral,
3 made by either party or by agents of either party, that is not contained in this written agreement
4 shall be enforceable.

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6 FOR THE COMMISSION:

7
8 Anthony Hernan
9 General Counsel

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11
12 BY: Kathleen M. Guith
13
14 Kathleen M. Guith
15 Deputy Associate General Counsel
16 for Enforcement

6-15-12
Date

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19 FOR THE RESPONDENTS:

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21
22 Edward Cotugno
23
24 (Name) Edward Cotugno
25 (Position) Member

4-30-12
Date

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